1	Jeffrey G. Knowles (State Bar No. 129754)
	Mark L. Hejinian (State Bar No. 281417)
2	COBLENTZ PATCH DUFFY & BASS LLP
	One Ferry Building, Suite 200
3	San Francisco, CA 94111-4213
	Telephone: 415.391.4800
4	Facsimile: 415.989.1663
	Email: ef-jgk@cpdb.com,
5	ef-mlh@cpdb.com
6	Terrence J. Fleming (Admitted <i>pro hac vice</i> )
	Christopher A. Grgurich (Admitted pro hac vice
7	LINDQUIST & VENNUM LLP
	4200 IDS Center
8	80 South 8th Street
	Minneapolis, MN 55402
9	Telephone: 612.371.3211
	Email: tfleming@lindquist.com
10	cgrgurich@lindquist.com
11	Attorneys for Defendant
	CARL TOWLEY III
12	
- 1	

## UNITED STATES DISTRICT COURT

## NORTHERN DISTRICT OF CALIFORNIA - SAN JOSE DIVISION

GARY L. TAVERNETTI,	Case No. 5:15-cv-01083 (NMC)
Plaintiff,	STIPULATION AND MODIFIED ORDER TO TRANSFER CASE
V.	
CARL TOWLEY, III, and DOES 1 through 00,	Judge: Nathanael M. Cousins
Defendants.	Complaint File: February 14, 2014 Trial Date: None Set

10149.004 3087587v1 5:15-cv-01083 (NMC)

5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	

1

2

3

WHEREAS, on February 14, 2015, Plaintiff Gary L. Tavernetti ("Plaintiff") filed a
Complaint for Damages, Injunctive Relief for and for Imposition of a Constructive Trust for: (1)
Breach of Contract, (2) Breach of Fiduciary Duty, (3) Fraud (Intentional, Misrepresentation,
Concealment and Non Disclosure), and (4) Conversion in Monterey County Superior Court
against, inter alia, Defendant Carl Towley, III ("Defendant");
WHEREAS, on March 3, 2015, Defendant (through counsel) was served with a First
Amended Complaint for Damages, Injunctive Relief for and for Imposition of a Constructive
Trust for: (1) Breach of Contract, (2) Breach of Fiduciary Duty, (3) Fraud (Intentional,
Misrepresentation, Concealment and Non Disclosure), and (4) Conversion (the "FAC");

WHEREAS, on March 9, 2015, Defendant removed the action to this Court pursuant to the provisions of 28 U.S.C. § 1332 (Dkt. 1);

WHEREAS, on March 16, 2015, Defendant filed a Motion To Dismiss (Dkt. 7) seeking, *inter alia*, transfer of this action to the United States Federal District Court of Minnesota because this action is improperly venued in California, but venue in Minnesota is proper;

WHEREAS, pursuant to 28 U.S.C. § 1406(a), the parties agree that the convenience of parties and witnesses and the interests of justice support venue in the United States Federal District Court of Minnesota because the alleged acts or events in the FAC, if true, would have taken place in whole or in part in Minnesota;

WHEREAS, the parties agree and consent to venue in United States Federal District Court of Minnesota as proper;

## IT IS THEREFORE STIPULATED AND AGREED THAT:

- (1) Defendant's Motion to Dismiss is GRANTED IN PART;
- (2) the above-captioned case should be transferred to the United States Federal District Court of Minnesota pursuant to 28 U.S.C. § 1406(a);
- (3) the Court ORDERS the Clerk of Court to transfer this case to the United States Federal District Court of Minnesota; and

27 || / / /

23

24

25

26

28

 $\parallel / / /$ 

10149.004 3087587v1 2 5:15-cv-01083 (NMC)

(3)

DATED: March 20, 2015

DATED: March 20, 2015

**BARRON & ASSOCIATES** 

Defendant's Motion to Dismiss is DENIED AS MOOT in all other respects.

By: /s/ Gerald V. Barron
Gerald V. Barron
Attorneys for Plaintiff
GARY L. TAVERNETTI

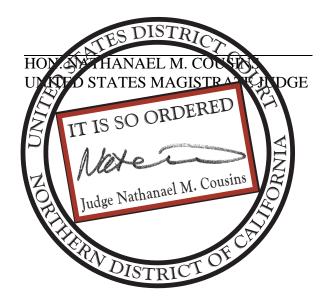
COBLENTZ PATCH DUFFY & BASS LLP

By: /s/ Jeffrey G. Knowles
Jeffrey G. Knowles
Attorneys for Defendant
CARL TOWLEY III

## **ORDER**

GOOD CAUSE APPEARING, IT IS SO ORDERED. In the interest of justice, this case is transferred to the U.S. District Court, District of Minnesota, under 28 U.S.C. § 1406(a).

Dated: March 23, 2015



10149.004 3087587v1 3 5:15-cv-01083 (NMC)